# MINUTES FOR THE COURT OF APPEAL STATE OF CALIFORNIA SECOND APPELLATE DISTRICT

#### **January 19, 2005**

#### **DIVISION ONE**

B177368 People v. Nielsen B178253 People v. Nielsen

Filed order consolidating above captioned appeals.

#### **DIVISION TWO**

B166352 M.J. Benjamin, Inc. (Not for Publication)

V.

Diana M. Bonta, as Director, etc. et al.

The judgment is affirmed. The Department shall recover its costs on appeal.

Ashmann-Gerst, J.

We concur: Nott, Acting P.J. Doi Todd, J.

#### **DIVISION THREE**

B168733 Paula Mary Campbell et al. (Not for Publication)

V.

Superior Court, Los Angeles County

(Myra H. Belfiore et al., r.p.i.)

The petition is denied. Costs awarded to real party in interest.

Klein, P.J.

We concur: Croskey, J.

Aldrich, J.

#### DIVISION THREE (Continued)

B168866 Grigor Gaboyan (Not for Publication)

V.

Azatui Charchayan

The order is reversed with directions to enter an order vacating the dismissal and reinstating the complaint. No costs are awarded.

Klein, P.J.

We concur: Kitching, J.

Aldrich, J.

B156726 Roy Al Finance & Loan Company et al. (Not for Publication)

V.

Rastegar & Matern et al.

The judgment is affirmed. Each party to bear their own costs.

Klein, P.J.

We concur: Kitching, J.

Aldrich, J.

#### **DIVISION FOUR**

B172407 Morrisseau et al. (Not for Publication)

V.

Andrade

The order denying the petition is reversed and the matter remanded to the superior court with orders to conduct a hearing allowing testimony in support of and in opposition to the petitions. Each party is to bear his or her own costs.

Hastings, J.

We concur: Epstein, P.J.

Curry, J.

## DIVISION FOUR (Continued)

B177183 People (Not for Publication)

V.

Panduro

The order is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.

Curry, J.

B172589 People (Not for Publication)

V.

Daniel F.

The order is affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.

Curry, J.

B170391 Renfrew

V.

CalNorth Reporting Service, LLC

Filed order denying petition for rehearing.

#### **DIVISION FIVE**

B179856 Renee Braswell

V.

JOL Management Company, Inc.

Filed order granting motion to dismiss appeal. Appeal (notice of appeal

filed December 9, 2004) dismissed.

## **DIVISION FIVE (Continued)**

B175345 Massoud Assef et al. (Not for Publication)

V.

Mathew Yang

The judgment is affirmed. Respondent(s) to recover costs.

Turner, P.J.

I concur: Armstrong, J.

I dissent: Mosk, J. (Opinion)

## **DIVISION SIX**

B170252 Brown (Yana)

V.

Yana

Filed order modifying opinion. Respondent's petition for rehearing is denied. (No change in the judgment). Yegan, J. would grant rehearing.

B175940 People (Not for Publication)

V.

Sanders

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.

Coffee, J.

## DIVISION SIX (Continued)

B173725 People (Not for Publication)

v. Kabey

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.

Coffee, J.

B175624 People (Not for Publication)

V.

Fedrick

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.

Perren, J.

B169224 People (Not for Publication)

v. Brock

The judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.

Perren, J.

## DIVISION SIX (Continued)

B176726 People (Not for Publication)

V.

Navarro

The judgment (order denying suppression motion) is affirmed.

Yegan, Acting P.J.

We concur: Coffee, J.

Perren, J.

B171431 People (Not for Publication)

V.

Wright

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.

Coffee, J.

B174867 People (Not for Publication)

v. Dear

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.

Perren, J.

## DIVISION SIX (Continued)

B175448 People (Not for Publication)

v. Taylor

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.

Coffee, J.

B177308 Child Protective Services (Not for Publication)

V.

Bradley S.

The order is affirmed.

Gilbert, P.J.

We concur: Coffee, J.

Perren, J.

B172437 People

V.

Patrick

Filed order modifying opinion. Petition for rehearing is denied. (No

change in the judgment)

#### **DIVISION SEVEN**

B172112 Sedaghat (Not for Publication)

v. Hang

The judgment is affirmed. Respondent(s) to recover costs.

Zelon, J.

We concur: Perluss, P.J.

Johnson, J.

B174829 Los Angeles County, D.C.S. (Not for Publication)

V.

Garnett C.,

In re Ariana C.

The orders denying the section 388 petition and establishing a legal guardianship are reversed and the matter is remanded to the juvenile court with directions that within 10 days of the remittitur, pursuant to ICWA and rule 1439 of the California Rules of Court (as amended, effective January 1, 2005), DCFS provide the appropriate Cherokee tribe or tribes and the Bureau of Indian Affairs with proper notice of the pending proceedings, which should include father's and all relevant ancestors' names and other pertinent information, the required forms and a copy of the petition, and that DCFS file copies of the notices sent, all return receipts, and all responses received with the juvenile court. If, after notice is properly given, no tribe responds indicating Ariana is an Indian child within the meaning of ICWA, the court shall reinstate its orders. If a tribe determines Ariana is an Indian child and seeks to intervene in the juvenile court proceedings, the juvenile court shall vacate the detention and disposition orders and conduct all proceedings in accordance with ICWA, section 360.6 and rule 1439 of the California Rules of Court. In all other respects, the order denying father's section 388 petition is affirmed.

Zelon, J.

We concur: Johnson, Acting P.J.

Woods, J.

## **DIVISION SEVEN (Continued)**

B173658 People (Not for Publication)

V.

Salgado

The judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.

Zelon, J.

B167869 People (Not for Publication)

V.

Flores

The victim restitution order is reversed; and the cause remanded for a restitution hearing. In all other respects the judgment is affirmed.

Perluss, P.J.

We concur: Johnson, J.

Zelon, J.

B170972 People (Not for Publication)

v.

Horton

The judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.

Zelon, J.

#### **DIVISION SEVEN (Continued)**

B171651 Johnson (Not for Publication)

V.

Mustafa

The order is reversed with directions to enter an order granting the motion to set aside the default judgment and the default. Appellant to recover costs on appeal.

Woods, J.

We concur: Perluss, P.J.

Zelon, J.

B172009 A/R Capital et al. (Not for Publication)

V.

Good Nite Inn et al.

The appeal as it relates to GNI is dismissed. The judgment with respect to McNab alone is reversed and remanded for further proceedings not inconsistent with this opinion. In all other respects the judgment of September 26, 2003, including the court's orders of July 23, 2001, November 18, 2001, February 8, 2002 and March 1, 2002, is affirmed. GNI is to recover its costs on appeal. All other parties are to bear his and its own costs on appeal.

Perluss, P.J.

We concur: Johnson, J.

Zelon, J.

#### **DIVISION EIGHT**

B177407 People (Not for Publication)

V.

Ramirez

The judgment is affirmed.

Boland, J.

We concur: Cooper, P.J.

Rubin, J.

B169058 Sanchez (Not for Publication)

V.

The Twelve Chairs Investment Company, Inc.

The judgment is affirmed. Costs are awarded to Sanchez.

Boland, J.

We concur: Cooper, P.J.

Flier, J.

B164418 Persson (Certified for Publication)

B167179 v.

B172749 Smart Inventions, Inc. et al.

The judgment against Jon Nokes is reversed to the extent it awards damages for breach of fiduciary duty, and is otherwise affirmed. The judgment against Smart Inventions on the cause of action for fraud by concealment is affirmed. The order awarding attorney fees is reversed and the cause is remanded to the trial court for further proceedings consistent with this opinion. The parties are to bear their own costs on appeal.

Boland, J.

We concur: Cooper, P.J.

Flier, J.